

 <b>KENTUCKY CORRECTIONS</b> Policies and Procedures	Policy Number	Total Pages
	15.8	4
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	January 12, 2017	June 2, 2017
References/Authority KRS 196.035, 197.020 <i>Byerly v. Ashley</i> , Ky. App., 825 S.W.2d 286 (1992) CPP 9.6, 13.8, 15.2	Subject  <b>POSSESSION OR USE OF UNAUTHORIZED SUBSTANCE AND SUBSTANCE ABUSE TESTING</b>	

## I. DEFINITIONS

"Chain of custody" means a written record of the proper collecting and handling of a urine specimen or contraband typically furnished by the testing company.

"Drug screen" means a test conducted by qualified laboratory personnel to determine the presence of unauthorized substances.

"On-site screening test" means a field test done in the presence of the inmate, if possible when a urine specimen is collected.

"Unauthorized substance" means any drug or intoxicant not permitted for use by an inmate in the custody of Corrections.

## II. POLICY and PROCEDURES

Each institution shall implement drug testing of inmates to control the use of unauthorized substances. Each Warden shall designate a drug testing coordinator who shall be responsible for implementing an inmate drug-testing program.

### 1. Inmate Selection Criteria

- A. Testing shall not be used as a form of punishment, harassment or intimidation. Any inmate shall be subject to drug testing. Testing may be conducted randomly. At least ten percent 10% of the institutional population shall be tested each month. Random selection shall be made by a computer generated method.
- B. Certain inmates may be targeted for additional testing, including any inmate:
  1. suspected of unauthorized substance use.
  2. living or working where a pattern of unauthorized substance use is discovered or suspected.

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3. who has a greater opportunity for unauthorized substance use due to work assignment, program assignment or furlough.
4. with a history of illegal substance use, especially within the institution.
5. participating in the First Incarceration Shock Treatment Program and the Substance Abuse Program.

## 2. Taking the Sample

- A. A urine sample for drug testing shall be collected and witnessed by staff of the same sex as the inmate submitting the sample.
- B. A urine sample shall be taken in a private, clean area.
- C. If an inmate is called to submit a urine sample, the inmate shall not be allowed to urinate prior to giving the sample.
- D. The inmate shall be ordered to thoroughly wash his hands prior to submitting a urine sample and if wearing long sleeves he shall be ordered to roll them up.
- E. Staff shall wear latex gloves at all times during the procedure. Staff taking the sample may place dye in the toilet bowl to help ensure the sample is not tainted by the inmate.
- F. A specimen bottle for the urine sample shall be labeled to positively identify the inmate.
- G. The inmate shall submit an acceptable specimen in the presence of the staff member witnessing the collecting of the sample.
  1. If an insufficient amount of urine is given for a drug screen and the inmate indicates he is unable to produce more at that time, the inadequate sample shall be properly disposed of; and
  2. a newly labeled specimen bottle shall be used.
- H. If an inmate indicates he is unable to submit a sample when requested, he shall be given:
  1. a maximum of three 3 hours; and
  2. at least one 1 eight 8 ounce glass of water per hour to induce urination.

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3. The inmate shall be maintained in a secure area while waiting to submit a sample.
  - I. If the inmate does not provide an acceptable urine specimen within the three 3 hour period, he shall receive a disciplinary report charging him with refusing or failing to submit to a drug urinalysis test within three 3 hours.
  - J. If the sample is requested from an inmate who has an established physical or psychological inability to urinate in the presence of another, he shall:
    1. be placed in a dry cell until a sample is produced;
    2. be stripped of all personal property except the sample container;
    3. be observed while consuming water;
    4. be provided a sack lunch, if meal time occurs during this period; and
    5. not produce a sample while food or drinks are in the cell.
  - K. If an on-site screening test is used, supervising staff shall perform the urine test in the presence of the inmate.
  - L. Each institution shall document a drug screen that shall detail:
    1. the inmate's name;
    2. date sample collected;
    3. the name of the staff collecting the sample;
    4. the date test returned; and
    5. the results.
  - M. Any deviation from D or E, above, shall not be considered a violation of this policy as it does not affect the test results, but shall be reviewed administratively regarding staff compliance.
3. Chain of Custody
  - A. An institution that uses any outside delivery agent to deliver a urine sample to the laboratory shall ensure that the sample is released to the delivery agent by signature of staff packaging the sample.
  - B. The laboratory personnel conducting the testing shall sign and date the chain of custody certifying that the sample:

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1. was received intact; and
  2. is properly identified as the inmate's.
- C. The laboratory shall report which substance the urine sample tested positive for, if any.
- D. If the test indicates the use of an unauthorized substance:
1. the sending institution shall be notified of the results;
  2. the institution shall initiate a disciplinary report against the inmate; and
  3. if more than one 1 unauthorized drug is detected, a separate disciplinary report shall be issued for each one.
- E. If a positive test for an unauthorized substance occurs, the institution shall determine and document through consultation with medical or pharmacy staff whether the inmate is taking medication that may have resulted in the positive results.
- F. The inmate shall receive a copy of the results of the test if a disciplinary report is filed against him.
4. Training
- Each institution shall ensure that staff assigned to obtain urine samples shall receive proper instruction in the collection of urine samples, and conducting an on-site screening test.
5. Sanctions
- Sanctions shall be imposed following a positive drug screen, refusal of drug screen or possession of an unauthorized substance defined as dangerous contraband in CPP 9.6. An alleged violation shall be fairly processed and an inmate's due process rights shall be fully protected. Sanctions shall include:
- A. Penalties as provided in CPP 15.2.
  - B. Classification referral to a pretreatment drug or alcohol counseling or education course as outlined in CPP 13.8.
  - C. Administrative restriction of visitation privilege for six (6) months.
  - D. Program sanctions as outlined in CPP 13.8 for an inmate who is in the Intensive Residential Substance Abuse Treatment IRSAT program.